

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

WILLIAM LEON MAROTZ,

No. C-13-01677 DMR

Plaintiff(s),

**ORDER DISCHARGING ORDER TO
SHOW CAUSE [DOCKET NO. 40] AND
EXTENDING TIME FOR SERVICE**

v.

CITY OF SAN FRANCISCO ET AL,

Defendant(s).

On April 12, 2013, Defendant City of San Francisco removed this lawsuit to this court. [Docket No. 1.] To date, the individually-named Defendants, the San Francisco Police Department, and the San Francisco Sheriff's Department have not appeared in this matter. On November 25, 2013, this court ordered Plaintiff to respond by December 9, 2013 and explain why this case should not be dismissed against the above Defendants for Plaintiff's failure to timely serve them, and noted that failure to respond by December 9, 2013 could result in dismissal of this action without prejudice, with respect to the above Defendants. [Docket No. 40.]

Plaintiff filed a response to the order to show cause on December 5, 2013. [Docket No. 43.] In his response, Plaintiff notes that he has filed two certificates of service, the first showing that the "amended complaint" was served via hand-delivery on the "counter person at 850 Bryant Street San Francisco, Hall of Justice, Legal Department" on November 7, 2013; and the second showing that

1 the “amended complaint” was served via hand-delivery on the “counter person at City Hall, San
2 Francisco, Room 456,” also on November 7, 2013. *See* Docket Nos. 37, 38.

3 This service is improper because, *inter alia*, there is no indication that Plaintiff has ever
4 attempted to serve a summons on the above Defendants. *See* Fed. R. Civ. P. 4(c)(1) (“A summons
5 must be served with a copy of the complaint. The plaintiff is responsible for having the summons
6 and complaint served within the time allowed by Rule 4(m) and must furnish the necessary copies to
7 the person who makes service.”). Rule 4(m) of the Federal Rules of Civil Procedure requires this
8 court to dismiss the action without prejudice against these Defendants if they are not served within
9 120 days after the complaint is filed, unless Plaintiff shows good cause for the failure to service, in
10 which case “the court must extend the time for service for an appropriate period.”

11 In his response to the order to show cause, Plaintiff, who is proceeding *pro se*, noted that his
12 failure to serve was the result of his “deteriorated emotional health, naivete, and inexperience, and
13 not [] lack of respect or effort.” The court notes that it has referred Plaintiff to the resources
14 available to *pro se* plaintiffs, including this court’s Pro Se Handbook and Legal Help Center, both of
15 which may provide Plaintiff assistance in this matter. Plaintiff indicated he was aware of these
16 resources. Given the circumstances, the court grants Plaintiff until **January 10, 2014** to properly
17 serve the above Defendants.

18 IT IS SO ORDERED.

19 Dated: December 18, 2013



20 DONNA M. RYU
21 United States Magistrate Judge
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